

**James Madison to Hezekiah Niles, January 8, 1822.  
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ed. Gaillard Hunt. New York: G.P. Putnam's Sons,  
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**TO HEZEKIAH NILES.<sup>1</sup> CHIC. HIST. SOC. MSS.**

<sup>1</sup> The letter with the annexed copies of supporting letters was printed in Niles' *Weekly Register*, January 26, 1822, Vol. xxi., p. 347. For the letter of November 25, 1780, to Joseph Jones, see *ante* l., 101; for that of December 5, 1780, to Jones, *Id.*, 110; for the joint letter of Thedorick Bland and Madison to Jefferson, December 13, 1780, *Id.*, 102 n.

Montpellier Jany 8 1822

In Ramsay's History of the American Revolution vol:2, pa. 300–301 is the following passage

“Mr. Jay was instructed to contend for the right of the U. States to the free navigation of the river Mississippi, and if an express acknowledgement of it could not be obtained, he was restrained from acceding to any stipulation by which it should be relinquished. But in February 1781, when Lord Cornwallis was making rapid progress in overrunning the Southern States, and when the mutiny of the Pennsylvania line and other unfavorable circumstances depressed the spirits of the Americans, Congress, on *the recommendation* of Virginia, directed him to recede from his instructions so far as they insist on the free navigation of that part of the Mississippi which lies below the thirty first degree of North Latitude, provided such cession should be unalterably insisted on by Spain, and provided

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the free navigation of the said river above the said degree of North Latitude should be acknowledged and guaranteed by his Catholic Majesty, in common with his own subjects.”

In this account of the instruction to Mr. Jay to relinquish the navigation of the Mississippi below the Southern boundary of the U. States, the measure would seem to have had its origin with the State of Virginia.

This was not the case: and the very worthy historian, who was not at that period a member of Congress, was led into his error by the silence of the journals as to what had passed on the subject previous to Feby 15, 1781, when they agreed to the instruction to make the relinquishment, as moved by the Delegates

of Virginia in pursuance of instructions from the Legislature. It was not unusual with the Secretary of Congress to commence his entries in the Journal with the stage in which the proceedings assumed a definitive character; omitting, or noting on separate & informal sheets only, the preliminary stages.

The Delegates from Virga had been long under instructions from their State to insist on the right to the navigation of the Mississippi; and Congress had always included it in their ultimatum for peace. As late as the 4th of Ocr 1780 (see the secret Journals of that date) they had renewed their adherence to this point by unanimously agreeing to the report of a Committee to whom had been referred “certain instructions to the delegates of Virga by their constituents and a letter of May 29 from Mr. Jay at Madrid,” which report<sup>1</sup> prohibited him from relinquishing the right of the U. States to the free navigation of the River Mississippi into and from the sea, as asserted in his former instructions. And on the 17th of the same month, October (see the secret Journals of that date) Congress agreed to the report of a Committee explaining the reasons & principles on which the instructions of October the 4th were founded.

<sup>1</sup> Drawn by J. M.—Madison's note.

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Shortly after this last measure of Congress, the Delegates of S. Carolina & Georgia, seriously affected by the progress and views of the Enemy in the Southern States, and by the possibility that the interference of the Great neutral powers might force a peace on the principle of *Uti possidetis*, whilst those States or parts of them might be in the military occupancy of G. Britain, urged with great zeal, within & without doors, the expediency of giving fresh vigour to the means of driving the enemy out of their country by drawing Spain into an alliance, and into pecuniary succours, believed to be unattainable without yielding our claim to the navigation of the Mississippi. The efforts of those Delegates did not fail to make proselytes till at length it was ascertained that a number was disposed to vote for the measure sufficient without the vote of Virginia and it happened that one of the two delegates from that State concurred in the policy of what was proposed [see the annexed letter of Novr 25 & extract of Decr 5, 1788, from J. Madison to Jos. Jones].

In this posture of the business, Congress was prevailed on to postpone any final decision untill the Legislature of Virginia could be consulted; it being regarded by all as very desirable, when the powers of Congress depended so much on the individual wills of the States, that an important member of the Union, on a point particularly interesting to it, should receive every conciliatory mark of respect, and it being calculated also that a change in the councils of that State might have been produced by the causes producing it in others.

A joint letter bearing date Decr 13, 1780 [which see annexed] was accordingly written by the Delegates of Virginia to Governor Jefferson to be laid before the Legislature then in session simply stating the case and asking instructions on the subject; without any expression of their own opinions, which being at variance could not be expressed in a letter to be signed by both.

The result of these communications from the Delegates was a repeal of the former instructions and a transmission of different ones, the receipt of which, according to an understanding when the decision of Congress was postponed, made it incumbent on

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the two Delegates to bring the subject before Congress. This they did by offering the instruction to M Jay agreed to on the 15th of Feby. 1781 and referred to in the historical passage above cited.

It is proper to add that the instant the menacing crisis was over the Legislature of Virginia revoked the instruction to her Delegates to cede the navigation of the Mississippi and that Congress seized the first moment also for revoking theirs to Mr. Jay.

I have thought a statement of these circumstances due to truth; and that its accuracy may be seen to depend not on memory alone the copies of contemporary documents verifying it are annexed.

In the hope that this explanation may find its way to the notice of some future Historian of our Revolutionary transactions I request for it a place, if one can be afforded, in your Register, where it may more readily offer itself to his researches than in publications of more transient or diffusive contents.

With friendly respects